

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION

E. RON PICKARD & LINDA PICKARD,  
as Trustees of the SHARON CHARITABLE  
TRUST and as individuals,

Plaintiffs,

v.

No. 09-1170

TENNESSEE MATERIALS CORPORATION,  
and CHARLES RAY SMITH, Owner of Tennessee  
Materials Corporation,

Defendants.

---

**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING  
DEFENDANTS' CONSOLIDATED MOTION TO SET ASIDE ENTRY OF DEFAULT  
AND FOR ADDITIONAL TIME TO RESPOND TO MOTION TO LIFT STAY, AND  
DENYING PLAINTIFFS' CONSOLIDATED MOTION FOR FINAL DEFAULT  
JUDGMENT AGAINST DEFENDANT TENNESSEE MATERIALS CORPORATION**

---

Before the Court are (1) the Plaintiffs' consolidated motion for entry of default and final default judgment against Defendant Tennessee Materials Corporation (TMC) (D.E. 79) and (2) the motion of TMC and Defendant Charles Ray Smith to set aside the Clerk's entry of default against TMC and for additional time to respond to the Plaintiffs' motion to lift the stay in this matter (D.E. 92). Pursuant to an order of reference, the magistrate judge, on November 4, 2011, entered a report and recommendation recommending that D.E. 92 be granted and D.E. 79 be denied. To date, no objections to the report and recommendation have been filed and the time for such objections has expired.

Upon review of the report and motion papers, the report and recommendation is hereby ADOPTED in its entirety. D.E. 79 is DENIED, Defendants' motion to set aside the Clerk's entry

of default against TMC (D.E. 92) is GRANTED, and Defendants are granted an additional period of fourteen (14) days from the entry of this order to respond to the Plaintiffs' motion to lift stay.

IT IS SO ORDERED this 30th day of November 2011.

s/ J. DANIEL BREEN  
UNITED STATES DISTRICT JUDGE